

REMARKS

Claims 1-4, 21, 23 and 24 are currently pending. Claim 22 is cancelled.

Claims 1-4, 5-12, 13-21, and 23- 25 are amended and under consideration.

Claims 1-4 and 21-24 were rejected under 35 U.S.C. 102(e) as being anticipated by Armstrong et al., U.S. 6,099,469). In response, applicant disagrees for reasons given below.

Claims 1-4 and 21-24 were rejected under 35 U.S.C. 102(e) as being anticipated by Carlson et al. (U.S. 6,140,065), for the reasons that the disclosure of Carlson meets the limitations of the steps set forth in the generic claims and the apparatus of Carlson meets all the limitations of the generic apparatus of the present application. In response, applicant disagrees for reasons given below.

Claims 1-4, 18 and 21-24 were rejected under 35 U.S.C. 102(b) as being anticipated by Adlassnig et al. (1995), for disclosing the HEPAXPERT-I computer algorithm which is alleged to meet the limitations of the generic apparatus claims, as memory, a processor and software. In response, applicant disagrees.

As discussed by applicant's attorney during the telephone interview, none of the cited references has the limitation that an external operator or technician cannot add tests that are deemed unnecessary under the algorithm for controlling the type of clinical tests to be done to diagnose a disease. This is because the algorithm has a control system that checks against unnecessary

tests. Applicant's invention is much needed and will make an impact on the cost of health care.

Examiners Clow and Woodward agreed during the interview that this is a distinguishing feature of the present invention, that overcomes all of the above cited art. Therefore, there is no basis for any of the rejections made in the Action and pending claims 1-4 and 21, and 23-24 should be allowed.

In addition, upon allowance of these generic claims, Applicant requests that claims 5-11, 13-20 and 25 be reinstated as being drawn to non-elected species, which was the condition of the Restriction Requirement.

Respectfully submitted,



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